

REMARKS

Applicants submit this Amendment After Final in reply to the Final Office Action mailed December 17, 2003 and Advisory Action mailed July 29, 2004.

In this Amendment After Final, Applicants have cancelled claims 8, 11, and 12, without prejudice or disclaimer; rewritten claim 7 to include the subject matter of claim 8; rewritten claim 11 into independent form; amended additional claims 9 and 10; and added new claims 16-21 to further define the claimed invention. The originally-filed specification, claims, abstract, and drawings fully support the subject matter of amended claims 7 and 9-11; and new claims 16-21. No new matter was introduced.

Before entry of this Amendment After Final, claims 7-15 were pending in this application, with claims 12-13 having been withdrawn from consideration. After entry of this Amendment After Final, claims 7, 9-11, and 14-21 are pending in this application, with withdrawn claims 12-13 having been cancelled. Claims 7 and 11 are the sole independent claims.

In the outstanding Final Office Action, the Examiner indicated that claim 11 was allowable, but depended from a rejected base claim, claim 7. Applicants assert that by rewriting claim 11 into independent form, claim 11, and its respective dependent claims 17-21, are now in *prima facie* condition for allowance.

On pages 3-5 of the Final Office Action, claims 7, 8, and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by Clark et al. (U.S. Patent No. 5,578,494) ("Clark"). Applicants respectfully traverse this rejection.

As-amended independent claim 7 recites, among other aspects, a “means for moving the plunger in a downward direction in response to movement of the pipetting-needle carrier in an upward direction.” Clark does not disclose the claimed invention.

Clark discloses a pipette probe and a pipette probe transfer mechanism. (Col. 46, line 56 through col. 47, line 15). Assuming *arguendo* that the opening pins 472 and/or the cap actuator 474 correspond to the plunger of claim 7, and that the pipette probe and/or the pipette probe transfer mechanism correspond to the pipetting-needle carrier of claim 7, Clark still does not disclose a “means for moving the plunger in a downward direction in response to movement of the pipetting-needle carrier in an upward direction,” as Clark only discloses that “the opening pins 472 move in an upward direction away from tabs 454(b), 433 to allow the caps 454, 434 to return to their evaporatively sealed closed positions” **after** “the pipette probe has been withdrawn from the reagent container 441,” and that the pipette probe transfer mechanism “can either be located at a remote location or station removed from the cap actuator station” or “can be integrated with the cap actuator station 464.” Indeed, Clark does not disclose any structure that specifically associates the movement of the pins 472 to the pipette probe and/or pipette probe transfer mechanism. Accordingly, because Clark does not disclose or suggest every aspect of as-amended independent claim 7, Applicants respectfully request withdrawal of the Section 102(b) rejection.

Applicants further submit that claims 9-10 and 14-21 depend from one of independent claims 7 and 11, and are therefore allowable for at least the same reasons that each of those respective independent claims is allowable. In addition, at least some of the dependent claims recite unique combinations that are neither taught nor

suggested by the cited reference, and therefore at least some also are separately patentable.

Applicants respectfully request that this Amendment After Final under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 7, 9-11, and 14-21 in condition for allowance. Applicants submit that the proposed amendments of claims 7 and 9-11, and the addition of claims 16-21, do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements were previously claimed. Therefore, this Amendment After Final should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the Final Office Action and Advisory Action by the Examiner presented some new arguments as to the application of the art against Applicants' invention. It is respectfully submitted that the entering of the Amendment After Final would allow the Applicants to reply to the final rejections and place the application in condition for allowance.

Finally, Applicants submit that the entry of the Amendment After Final would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment After Final, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Final Office Action and Advisory Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Final Office Action or Advisory Action.

In discussing the specification and claims in this Amendment After Final, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this Amendment After Final and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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